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TRIE, and those who regard a constitution as an instrument which takes away power from an omnipotent legislature. There are, we believe, many things a State legislature cannot do, except they are expressly permitted, which, we may add, they never are. On the other hand, we do not wish to be understood as differing with Mr. McMURTRIE and others, who, holding an opposite opinion on this first point, criticise some of the recent applications of this canon of constitutional interpretation. We believe, for instance, that in such cases as the regulation of prices, the legislature has the power, unless expressly prohibited.

The thought which we have tried to bring out in these papers, is that the canon of constitutional interpretation, which would confer on a legislature all power not expressly taken away from a legislature, is just as much a mistake as to say that all power not expressly granted is withheld. Rather from the extraordinary nature of some powers, it seems to us we are forced to regard them as withheld if they are not expressly granted; while other powers, whose exercise, however unwise, do not shock us as against all justice, or of which, to use a term of Chief Justice MARSHALL'S, it can be said they are not "legislative powers at all," should rightly be considered as granted, if they are not expressly withheld. It may not be easy to draw the line, but we do not doubt that the cases which will arise in the next few years will prove that it is no more difficult than many applications of other principles which courts must make in the slow development of the law.

BOOKS RECEIVED.

[All legal works received before the first of the month will be reviewed in the issue of the following month. Books should be sent to Wm. Draper Lewis, Esq., 701 Drexel Building, Phila., Pa.]

LECTURES ON SANITARY LAW. By A. WYNTER BLYTH. London and New York: MacMillan & Co., 1893.

SELECT CASES ON EVIDENCE AT THE COMMON LAW. By JAMES BRADLEY THAYER, LL.D. Cambridge: Charles W. Sever, 1892.

- SUNDAY—LEGAL ASPECTS OF THE FIRST DAY OF THE WEEK. By JAMES T. RINGGOLD. Jersey City, N. J.: Frederick D. Linn & Co., 1891.
- MANUAL FOR INSPECTORS OF ELECTION, POLL CLERKS, BALLOT CLERKS AND VOTERS OF THE STATE OF NEW YORK. By F. G. JEWETT. Albany, N. Y.: Matthew Bender, 1893.
- THE LAW OF PUBLIC HEALTH AND SAFETY, AND THE POWERS AND DUTIES OF BOARDS OF HEALTH. By LEROY PARKER and ROBERT H. WORTHINGTON. Albany, N. Y.: Matthew Bender, 1892.
- HAND-BOOK OF THE LAW OF BILLS AND NOTES, designed especially for the use of instructors and students in law schools. By CHARLES P. NORTON. St. Paul, Minn.: West Publishing Company, 1893.
- SYPHILIS IN THE INNOCENT (Syphilis Insontium). Clinically and Historically Considered, with a Plan for the Legal Control of the Disease. By L. DUNCAN BULKLEY, A.M., M.D. New York: Bailey & Fairchild, 1893.
- THE LAW OF WILLS. By JOHN B. CASSODAY, LL.D. Being a Series of Lectures on the subject of "Wills" delivered before the College of Law of the University of Wisconsin. St. Paul, Minn.: West Publishing Company, 1893.
- A TREATISE ON THE LAW OF TORTS, OR THE WRONGS AND THEIR REMEDIES. By C. G. ADDISON. Seventh Edition. Edited by HORACE SMITH and A. P. PERCIVAL KEEP, M.A. London: Stevens & Sons, Limited, 119 and 120 Chancery Lane, 1893.
- LAW OF FOREIGN CORPORATIONS. A Discussion of the Principles of Private International Law and of Local Statutory Regulations applicable to Transactions of Foreign Companies. By WILLIAM L. MURFREE, JR. St. Louis, Mo.: Central Law Journal Co., 1893.
- THE AMERICAN DIGEST (Annual, 1893). Being Volume VII of the United States Digest, Third Series, Annuals, also, the Complete Digest for 1893. Prepared and edited by the Editorial Staff of the National Reporter System. St. Paul, Minnesota: West Publishing Co., 1893.
- PRINCIPLES OF THE LAW OF INTEREST, as applied by Courts of Law and Equity in the United States and Great Britain, and the Text of the General Interest Statutes in force in the United States, Great Britain and the Dominion of Canada. By SIDNEY PERLEY. Boston: George B. Reed, 1893.
- COMPARATIVE ADMINISTRATIVE LAW. An Analysis of the Administrative Systems, National and Local, of the United States, England, France and Germany. By FRANK J. GOODNOW, A.M., LL.D. Vol. I. Organization: Vol. II, Legal Relations. New York: G. P. Putnam's Sons, 1893.
- A TREATISE ON THE LAW OF INSURANCE, including Fire, Life, Guarantee and other Non-marine Risks, with reference to the Decisions in the United States, England, Ireland, Scotland, Canada and the other British Provinces. By ARTHUR BIDDLE, M.A. Two volumes. Philadelphia: Kay & Brother, 1893.

LAWYERS' REPORTS, ANNOTATED. Book XIX. All Current Cases of General Value and Importance decided in the United States, State and Territorial Courts, with full annotation. By BURDETT A. RICH and HENRY P. FARNHAM (Cited 19 L. R. A.). Rochester, N. Y. : The Lawyers' Co-Operative Publishing Co., 1893.

TREATISE ON EXTRAORDINARY RELIEF, IN EQUITY AND AT LAW. By THOMAS CARL SPELLING. Covering Injunction, Habeas Corpus, Mandamus, Prohibition, Quo Warranto, Certiorari. Containing an exposition of the principles governing these several forms of relief, and of their practical use, with citations of all the authorities up to date. Two volumes. 8vo. Boston, Mass. : Little, Brown & Co.

BOOK REVIEWS.

OBSERVATIONS ON THE LAW OF PENNSYLVANIA RELATING TO MECHANICS' LIENS. By RICHARD C. MCMURTRIE.

In a pamphlet of twenty-nine pages Mr. McMurtrie discusses three questions in regard to the Mechanics' Lien Law of Pennsylvania :

(1) "The right or power of the owner of land to exclude the lien."
 (2) The holding of the lessor's estate liable for claims of material men, "where a lessee for years contracted to erect a house on the demised premises, for doing which the rent was diminished": *Woodward v. Leiby*, 36 Pa., 441.

(3) The decision "that where materials are in good faith delivered for a building to a contractor, though not used in the building, the seller has a lien": *Hinchman v. Graham*, 2 S. & R., 170; *Odd Fellows' Hall v. Masser*, 24 Pa., 510; *Linden v. Imp. Ref. Co.*, 146 Pa., 4.

The criticism of the decisions of the Supreme Court of Pennsylvania on the second and third points is logically sound. These decisions, however, illustrate the long time tenderness of the Supreme Court toward the mechanics' lien claimant.

The greater part of the pamphlet is taken up by a discussion of the first question and a consideration of the case of *Schroeder v. Galland*, 134 Pa., 277, in which the court first announced the doctrine that the owner could exclude the lien of every one by a stipulation against liens in his contract with the contractor. Certainly this doctrine does not breathe any spirit of kindness toward the mechanic or material man. Mr. McMurtrie clearly shows that from the time of the first mechanics' lien law in Pennsylvania up to the year 1890, a period of over eighty years, no such rule had been laid down by the Supreme Court of this State. He further shows that the lien is purely statutory, and is not made by the statutes to depend upon the agency of the contractor for the owner: "The contractor mentioned in the Act of Assembly is not an agent in any sense of the word—he is a principal and the only one. It is not he that binds the owner's property, it is the statute." The argument of Mr. McMurtrie seems to us unanswerable.

At the conclusion of the pamphlet Mr. McMurtrie refers to the Act